



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2015-0330; FRL-9928-95-Region 10]

**Approval and Promulgation of Implementation Plans; Washington: Interstate Transport
of Fine Particulate Matter**

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. On May 11, 2015, the State of Washington submitted a SIP revision to the Environmental Protection Agency (EPA) to address these interstate transport requirements with respect to the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). The EPA is proposing to find that Washington has adequately addressed certain CAA interstate transport requirements for the 2006 24-hour PM_{2.5} NAAQS.

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2015-0330, by any of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- Email: *R10-Public_Comments@epa.gov*.
- Mail: Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT-150), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101.
- Hand Delivery / Courier: EPA Region 10 9th Floor Mailroom, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT - 150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2015-0330. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553-0256,

hunt.jeff@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA. Information is organized as follows:

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I. Background

A. 2006 24-hour PM_{2.5} NAAQS and Interstate Transport

On September 21, 2006, the EPA promulgated a final rule revising the 1997 24-hour primary and secondary NAAQS for PM_{2.5} from 65 micrograms per cubic meter (µg/m³) to 35 µg/m³ (October 17, 2006, 71 FR 61144). Section 110(a)(1) of the CAA requires each state to

submit to the EPA, within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a primary or secondary NAAQS or any revision thereof, a SIP that provides for the “implementation, maintenance, and enforcement” of such NAAQS. The EPA refers to these specific submittals as “infrastructure” SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS. For the 2006 24-hour PM_{2.5} NAAQS, these infrastructure SIPs were due on September 21, 2009. CAA section 110(a)(2) includes a list of specific elements that “[e]ach such plan submission” must meet.

The interstate transport provisions in CAA section 110(a)(2)(D)(i) (also called “good neighbor” provisions) require each state to submit a SIP that prohibits emissions that will have certain adverse air quality effects in other states. CAA section 110(a)(2)(D)(i) identifies four distinct elements related to the impacts of air pollutants transported across state lines. In this action, the EPA is addressing the first two elements of this section, specified at CAA section 110(a)(2)(D)(i)(I)¹, for the 2006 24-hour PM_{2.5} NAAQS.

The first element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will “contribute significantly to nonattainment” of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP contain adequate provisions to prohibit any source or

¹ This proposed action does not address the two elements of the interstate transport SIP provision in CAA section 110(a)(2)(D)(i)(II) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. We previously addressed CAA section 110(a)(2)(D)(I)(II) for the 2006 24-hour PM_{2.5} NAAQS in a final action dated May 12, 2015 (80 FR 27102).

other type of emissions activity in the state from emitting air pollutants that will “interfere with maintenance” of the applicable NAAQS in any other state.

B. Rules Addressing Interstate Transport for the 2006 24-hour PM_{2.5} NAAQS

The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) in past regulatory actions.² The EPA promulgated the final Cross-State Air Pollution Rule (Transport Rule) to address CAA section 110(a)(2)(D)(i)(I) in the eastern portion of the United States with respect to the 2006 PM_{2.5} NAAQS, the 1997 PM_{2.5} NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). The Transport Rule was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially remanded.³ *See North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the D.C. Circuit issued a decision vacating the Transport Rule. *See EME Homer City Generation, L.P. v. E.P.A.*, 696 F.3d 7 (D.C. Cir. 2012). The Court also ordered the EPA to continue implementing CAIR in the interim. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit’s ruling and upheld the EPA’s approach in the Transport Rule for the issues that were in front of the Supreme Court for review.⁴ On October 23, 2014, the DC Circuit lifted the stay on the Transport Rule.⁵ While our evaluation is consistent with the Transport Rule approach, the State of Washington was not covered by either CAIR or the Transport Rule, and the EPA made no determinations in either rule regarding

² *See* NO_x SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

³ CAIR addressed the 1997 annual and 24-hour PM_{2.5} NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour PM_{2.5} NAAQS. For more information on CAIR, please see our July 30, 2012 proposal for Arizona regarding interstate transport for the 2006 PM_{2.5} NAAQS (77 FR 44551, 44552).

⁴ *EPA v. EME Homer City Generation, L.P.*, 134 S.Ct. 1584 (2014).

⁵ USCA Case #11-1302, Document # 1518738, Filed 10/23/2014.

whether emissions from sources in Washington significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in another state, nor did it attempt to quantify Washington's obligation.⁶

C. Guidance

On September 25, 2009, the EPA issued a guidance memorandum that addressed the requirements of CAA section 110(a)(2)(D)(i) for the 2006 24-hour PM_{2.5} NAAQS ("2006 24-hour PM_{2.5} NAAQS Infrastructure Guidance" or "Guidance").⁷ With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) that state SIPs contain adequate provisions prohibiting emissions that would contribute significantly to nonattainment of the NAAQS in any other state, the 2006 24-hour PM_{2.5} NAAQS Infrastructure Guidance essentially reiterated the recommendations for western states made by the EPA in previous guidance addressing the CAA section 110(a)(2)(D)(i) requirements for the 1997 8-hour ozone and 1997 PM_{2.5} NAAQS.⁸ The 2006 24-hour PM_{2.5} NAAQS Infrastructure Guidance advised states outside of the CAIR region to include in their CAA section 110(a)(2)(D)(i)(I) SIPs adequate technical analyses to support their conclusions regarding interstate pollution transport, *e.g.*, information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to the

⁶ Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

⁷ See Memorandum from William T. Harnett entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)," September 25, 2009, available at http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf.

⁸ See Memorandum from William T. Harnett entitled "Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and PM_{2.5} National Ambient Air Quality Standards," August 15, 2006, available at http://www.epa.gov/ttn/caaa/t1/memoranda/section110a2di_sip_guidance.pdf.

nearest areas not attaining the NAAQS in other states, and air quality modeling.⁹ With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) that state SIPs contain adequate provisions prohibiting emissions that would interfere with maintenance of the NAAQS by any other state, the Guidance stated that SIP submissions must address this independent requirement of the statute and provide technical information appropriate to support the state's conclusions, such as information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient concentrations in the state and in potentially impacted states, and air quality modeling. See footnotes 5 and 6.

In this action, the EPA is proposing to use the conceptual approach to evaluating interstate pollution transport under CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS with respect to Washington that the EPA explained in the 2006 24-hour PM_{2.5} NAAQS Infrastructure Guidance. The EPA believes that the CAA section 110(a)(2)(D)(i)(I) SIP submission from Washington for the 2006 24-hour PM_{2.5} NAAQS may be evaluated using a “weight of the evidence” approach that takes into account available relevant information. Such information may include, but is not limited to, the amount of emissions in the state relevant to the 2006 24-hour PM_{2.5} NAAQS, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may contribute

⁹ The 2006 24-hour PM_{2.5} NAAQS Infrastructure Guidance stated that EPA was working on a new rule to replace CAIR that would address issues raised by the Court in the *North Carolina* case and that would provide guidance to states in addressing the requirements related to interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS. It also noted that states could not rely on the CAIR rule for section 110(a)(2)(D)(i)(I) submissions for the 2006 24-hour PM_{2.5} NAAQS because the CAIR rule did not address this NAAQS. See 2006 PM_{2.5} NAAQS Infrastructure Guidance at 4.

significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in other states. These submissions may rely on modeling when acceptable modeling technical analyses are available, but if not available, other available information can be sufficient to evaluate the presence or degree of interstate transport in a specific situation for the 2006 24-hour PM_{2.5} NAAQS. For further explanation of this approach, see the technical support document (TSD) in the docket for this action.

II. State Submittal

CAA sections 110(a)(1) and (2) and section 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. The EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, a public comment period of at least 30 days, and an opportunity for a public hearing.

On May 11, 2015, Washington submitted a SIP to address the interstate transport requirements of CAA section 110(a)(2)(D)(i) for the 2006 PM_{2.5} NAAQS (Washington 2006 PM_{2.5} Interstate Transport submittal).¹⁰ The Washington 2006 PM_{2.5} Interstate Transport submittal included documentation of a public comment period from March 9, 2015 through April 10, 2015, and opportunity for public hearing. We find that the process followed by Washington

¹⁰ The Washington 2006 PM_{2.5} Interstate Transport submittal only addressed the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements of the 2006 PM_{2.5} NAAQS. The EPA previously addressed CAA section 110(a)(2)(D)(i)(II) for the 2006 PM_{2.5} NAAQS in a separate action (May 12, 2015, 80 FR 27102). In addition, we previously approved the Washington SIP for 110(a)(2)(D)(i) with respect to the 1997 PM_{2.5} NAAQS on January 13, 2009 (74 FR 1591). Finally, Washington did not submit a CAA section 110(a)(2)(D)(i)(I) demonstration with respect to the 2012 PM_{2.5} NAAQS, which the State intends to address in a future action.

in adopting the SIP submittal complies with the procedural requirements for SIP revisions under CAA section 110 and the EPA's implementing regulations.

With respect to the requirement in CAA section 110(a)(2)(D)(i)(I), the Washington 2006 PM_{2.5} Interstate Transport submittal referred to the applicable rules in the Washington SIP, meteorological and other characteristics of areas with nonattainment problems for the 2006 24-hour PM_{2.5} NAAQS in surrounding states, and Interagency Monitoring of Protected Visual Environments (IMPROVE) data from the regional haze program that provides additional information on how Washington sources influence monitored PM_{2.5} levels in National Parks and wilderness areas surrounding Washington to assess potential interstate transport. The Washington submittal concluded that, based on the weight of the evidence, the Washington SIP adequately addresses the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS. A detailed discussion of the Washington 2006 PM_{2.5} Interstate Transport submittal can be found in the technical support document (TSD) in the docket for this action.

III. EPA Evaluation

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirements are satisfied, the EPA must determine whether a state's emissions will contribute significantly to nonattainment or interfere with maintenance in other states. If this factual finding is in the negative, then CAA section 110(a)(2)(D)(i)(I) does not require any changes to a state's SIP. Consistent with the EPA's approach in the 1998 NO_x SIP call, the 2005 CAIR, and the 2011 Transport Rule, the EPA is evaluating these impacts with respect to specific monitors identified as having nonattainment and/or maintenance problems, which we refer to as "receptors." See footnote 2.

With respect to this proposed action, the EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2006 24-hour PM_{2.5} NAAQS in another state. Our proposed action takes into account the Washington 2006 PM_{2.5} Interstate Transport submittal, a supplemental evaluation of monitors in other states that are appropriate “nonattainment receptors” or “maintenance receptors,” and a review of monitoring data considered representative of background. Based on the analysis in our TSD in the docket for this action, we believe that it is reasonable to conclude that emissions from sources in Washington do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in any other state.

A. Identification of Nonattainment and Maintenance Receptors

The EPA evaluated data from existing monitors over three overlapping three-year periods (i.e., 2009-2011, 2010-2012, and 2011-2013) to determine which areas were violating the 2006 24-hour PM_{2.5} NAAQS and which areas might have difficulty maintaining the standard. If a monitoring site measured a violation of the 2006 24-hour PM_{2.5} NAAQS during the most recent three-year period (2011-2013), then this monitor location was evaluated for purposes of the significant contribution to nonattainment element of CAA section 110(a)(2)(D)(i)(I). If, on the other hand, a monitoring site showed attainment of the 2006 24-hour PM_{2.5} NAAQS during the most recent three-year period (2011-2013) but a violation in at least one of the previous two three-year periods (2009-2011 or 2010-2012), then this monitor location was evaluated for purposes of the interference with maintenance element of the statute.

The State of Washington was not covered by the modeling analyses available for the CAIR and the Transport Rule. The approach described above is similar to the approach utilized

by the EPA in promulgating the CAIR and the Transport Rule. By this method, the EPA has identified those areas with monitors to be considered “nonattainment receptors” or “maintenance receptors” for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area.

B. Evaluation of Significant Contribution to Nonattainment

The EPA reviewed the Washington 2006 PM_{2.5} Interstate Transport submittal and additional technical information to evaluate the potential for emissions from sources in Washington to contribute significantly to nonattainment of the 2006 24-hour PM_{2.5} NAAQS at specified monitoring sites in the western United States.¹¹ The EPA first identified as “nonattainment receptors” all monitoring sites in the western states that had recorded PM_{2.5} design values above the level of the 2006 24-hour PM_{2.5} NAAQS (35 µg/m³) during the years 2011-2013.¹² Please see the TSD in the docket for a more detailed description of the EPA’s methodology for selection of nonattainment receptors. All of the nonattainment receptors we identified in western states are in California, Idaho, Montana, Oregon, and Utah.¹³

Based on the analysis in our TSD, we believe it is reasonable to conclude that emissions from sources in Washington do not significantly contribute to nonattainment of the 2006 24-hour

¹¹ The EPA has also considered potential PM_{2.5} transport from Washington to the nearest nonattainment and maintenance receptors located in the eastern, midwestern, and southern states covered by the Transport Rule and believes it is reasonable to conclude that, given the significant distance from Washington to the nearest such receptor (in Illinois) and the relatively insignificant amount of emissions from Washington that could potentially be transported such a distance, emissions from Washington sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS at this location. These same factors also support a finding that emissions from Washington sources neither contribute significantly to nonattainment nor interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS at any location further east. *See* TSD at Section II.C.

¹² Because CAIR did not cover states in the western United States, these data are not significantly impacted by the remanded CAIR at the time and thus could be considered in this analysis.

¹³ As this analysis is focused on *interstate* transport, the EPA did not evaluate the impact of Washington emissions on nonattainment or maintenance receptors within Washington.

PM_{2.5} NAAQS in any other western state. We also evaluated nonattainment receptors in eastern states, as detailed in the TSD, and we believe it is reasonable to conclude that emissions from sources in Washington do not significantly contribute to nonattainment of the 2006 24-hour PM_{2.5} NAAQS in any eastern state. Based on the analysis in our TSD, we are proposing to determine that Washington's SIP adequately addresses the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS.

C. Evaluation of Interference with Maintenance

The EPA reviewed the Washington 2006 PM_{2.5} Interstate Transport SIP and additional technical information to evaluate the potential for Washington emissions to interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS at specified monitoring sites in the western United States. The EPA first identified as "maintenance receptors" all monitoring sites in the western states that had recorded PM_{2.5} design values above the level of the 2006 24-hour PM_{2.5} NAAQS (35 µg/m³) during the 2009-2011 and/or 2010-2012 periods but below this standard during the 2011-2013 period. Please see our TSD for more information regarding the EPA's methodology for selection of maintenance receptors. All of the maintenance receptors we identified in western states are located in California, Montana, and Utah.

As detailed in the TSD, we believe it is reasonable to conclude that emissions from sources in Washington do not interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in these states. We also evaluated maintenance receptors in eastern states, as detailed in the TSD, and we believe it is reasonable to conclude that emissions from sources in Washington do not interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in any eastern state.

IV. Proposed Action

The EPA is proposing to find that Washington has adequately addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land in Washington except for as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 29, 2015.

Dennis J. McLerran,
Regional Administrator,
Region 10.
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